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EXAMINER
THAI, HANH B

ART UNIT	PAPER NUMBER
2163	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@SLWK.COM

	Application No.	Applicant(s)
Office Action Summary	09/733,767	SEAMON, JOSEPH
	Examiner	Art Unit
	Hanh B. Thai	2163

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE **3** MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *The Appeal Brief filed 3/21/2007*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-6, 8-12,14-18 and 20-29* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-6, 8-12,14-18 and 20-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   The Following is Non-Final Office Action in response to Appeal Brief filed March 21,

2007. Prosecution is withdrawn from the Appeal Brief in light of a new issue found.

Response to Arguments

2.   Applicant's arguments filed July 12, 2006 regarding "a data item that is user-classifiable

under a first hierarchy of categories and not user-classifiable under a second hierarchy of

categories" have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show

nonobviousness by attacking references individually where the rejections are based on

combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re*

Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Ortega clearly discloses low-level and high-level categories of hierarchy "tree" based on

various pre-defined subjects and classification (col. 3, lines 21-28, Ortega; col.4, lines 16-52 and

col. 7, lines 6-24, Ortega).

Fohn, a secondary reference, discloses multiple hierarchies of information including an

information hierarchy of categories and an alternative hierarchy of categories (Figs. 6A-6C;

col.2, lines 47-61 and col.15, line 63 to col.17, line 29, Fohn) in the manner similar to the

claimed language.

Therefore, the combination of Ortega and Fohn discloses the invention as claimed.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
requirements of this title.

3.   Claims 1, 3-6, 8-12 and 28-29 are rejection under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Per MPEP section 2106:

The subject matter to be statutory must claim a practical application i.e. the method as claimed must produces a useful, concrete and tangible result. See AT &T, 172 F.3d at 1358, 50 USPQ2d at 1452.

Regarding claim 1, applicant merely claims a first structure of categories and a second structure of categories without claiming a practical application for the first and second structure. Furthermore, it is an abstract idea of defining and identifying a hierarchy of categories. The final result achieved of claim 1 merely defining structure without applying the defined structures to a disclosed practical application or at least implementing the defined structures in such a manner that their useful as defined can be realized by a computing system. Defining alone fails to rise above the level of pure abstraction to actually achieving a useful, concrete and tangible result so as to constitute a practical application of the abstract idea embodied the manner in which the structures are defined. Specifically, "defining a first structure of categories" and "defining a second structure of categories" can be simply defining data in person's mind to classify a data item. There is no physical process to generate a useful result.

Regarding claims 28 and 29, the claims recite a machine-readable medium, in light of specification, paragraph 71, pg.publication which says that machine usable medium can be carrier waves as the definition of tangible is something that can be toughed or perceived and a signal can be perceived. Therefore, the claims are directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1,3-6, 8-12,14-18 and 2 0-29 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Ortega et al. (U. S. Patent no. 6,489,968 B1) of record in view of Fohn et al.

(US 6,460,025 B1)

Regarding claim 1, Ortega discloses a method of constructing a category structure within

a database, the method including:

-       defining a first structure of categories to classify a data item, the first structure

including at least a first category (see col. 3, lines 12-18, Ortega). The claimed

"first structure of categories" corresponds to "higher-level categories".

-       defining a second structure of categories of the data item (see col. 3, lines 21-

28, Ortega), the second structure including at least a second category, wherein

the second category is associated with the first category. The claimed "second

structure of categories" corresponds to "low-level categories" (see col. 7, lines

6-24, Ortega), the first category comprises a first category path defined in terms

of the first structure of categories and the second category comprises a second

category path defines in terms of the second structure of categories, the first

category path including a first plurality of categories that are respectively

associated with a first plurality of category identifiers and the second category

path including a second plurality of categories that are respectively associated

with a second plurality of category identifiers (col.5, line 1 to col. 6, line 20 and

lines 30-39 and col.7, lines 6-50. The claimed category identifier corresponds to

the category name that is unique in Otega).

Ortega, however, does not explicitly disclose "the first hierarchy of categories and an

alternative second hierarchy of categories." Fohn, on the other hand, discloses a method for

improving user exploration through hierarchies of information including an information

hierarchy of categories and an alternative hierarchy of categories (Figs. 6A-6C; col.2, lines 47-61

and col.15, line 63 to col.17, line 29, Fohn). Therefore, Fohn discloses the first hierarchy of

categories and an alternative second hierarchy of categories. It would have been obvious to one

of ordinary skill in the art at the time of the invention to modify the method of Ortega to include

an alternative second hierarchy of categories as taught by Fohn. The motivation of doing so

would have been to increase the popularity of on-line auction services, where a vast array of

products being offered at auction are organized into a hierarchy of categories to conveniently

direct a shopper's attention to the items corresponding to his personal interest (see col. 2, lines

18-23, Fohn).

Regarding claims 3 and 4, Ortega/Fohn combination further discloses the first and second

category is a leaf category of the first and second hierarchy of categories (see col. 3, lines 12-24

and col. 4, lines 43-61, Ortega).

Regarding claim 5, Ortega/Fohn combination further discloses defining the second

category (C2, Fig. 1B) to point to the first category (C1, Fig. 1B, Ortega).

Regarding claim 6, Ortega/Fohn combination further discloses the second structure includes defining the second hierarchy such that navigation of the second hierarchy to locate data items classified as being attributed to the second category locates data items classified as being attributed to the first category of the   first hierarchy (see col. 4, lines 43-52, Ortega).

Regarding claim 8, Ortega/Fohn combination further discloses the data item is directly categorized as being within the first category of the first structure of categories and is indirectly categorized as being within the second category of the second structure of categories (see col. 4, lines 53-67 and Fig. 1B, Ortega).

Regarding claim 9, Ortega/Fohn combination further discloses defining a category table including a category record for each category of the first and second structures of categories, each category record within the category table (see col.9, lines 59-62) including a category identifier, wherein a category record that describes the second category includes a category identifier (see col. 4, lines 20-23, Ortega) of a category record for the first category.

Regarding claim 10, Ortega/Fohn combination further discloses the data item is a database record describing any one of a group of products and services of a transaction facilitated by a network-based transaction facility (see col. 4, lines 23-33, Ortega).

Regarding claim 11, Ortega/Fohn combination further discloses the network-based transaction facility is a network-based auction facility (see col. 3, lines 29-37, Ortega).

Regarding claim 12, Ortega/Fohn combination further discloses defining a third structure of categories to provide a further alternative classification of the data item, the third structure including at least a third category, wherein the third category is associated with the first category of the first structure of categories (see col. 5, lines 34-45, Ortega).

Regarding claims 14 and 28, Ortega discloses a method of classifying a data item within a database, the method including:

- identifying a first category, of a first hierarchy of categories, attributed to a data item (see col. 1, lines 58-64 and col. 3, lines 12-18, Ortega discloses "higher-level categories" corresponds to "first structure of categories"); and

- automatically attributing a second category, of a second hierarchy of categories, to the data item (see col.3, lines 21-28; col. 4, lines 20-23 and col.7, lines 6-24, Ortega discloses the "low-level categories" that corresponds to "second structure of categories"), wherein the first and second categories are defined by respective category paths of the first and second hierarchies of categories, the first category path including a first plurality of categories that are respectively associated with a first plurality of category identifiers and the second category path including a second plurality of categories that are respectively associated with a second plurality of category identifiers (col.5, line 1 to col. 6, line 20 and lines 30-39 and col.7, lines 6-50. Ortega discloses the category name that is unique identified and displayed to the user corresponds to "category identifier").

Ortega, however, does not explicitly disclose "a second alternative hierarchy of categories." Fohn, on the other hand, discloses a method for improving user exploration through hierarchies of information including an information hierarchy of categories and an alternative hierarchy of categories (Figs. 6A-6C; col.2, lines 47-61 and col.15, line 63 to col.17, line 29, Fohn). Therefore, Fohn discloses the first hierarchy of categories and an alternative second hierarchy of categories. It would have been obvious to one of ordinary skill in the art at the time

of the invention to modify the method of Ortega to include an alternative second hierarchy of categories as taught by Fohn. The motivation of doing so would have been to increase the popularity of on-line auction services, where a vast array of products being offered at auction are organized into a hierarchy of categories to conveniently direct a shopper's attention to the items corresponding to his personal interest (see col. 2, lines 18-23, Fohn).

Regarding claim 15, Ortega/Fohn combination further discloses the first and second categories are associated within a description of categories within the database (see col. 4, lines 29-33, Ortega discloses the "book title" that is description of the book category).

Regarding claim 16, Ortega/Fohn combination further discloses the first category is attributed to the data item by a user during a user classification operation and the second category is dynamically attributed to the data item during a user navigation operation of the second hierarchy of categories, wherein the dynamic attributing of the second category is performed by identification of an association between the first and second categories (see col. 4, lines 43-67 and col. 4, lines 20-33, Ortega).

Regarding claim 17, Ortega/Fohn combination further discloses the first category is directly recorded within the database as being attributed to the data item and the second category is recorded as being linked to the first category within the database (see col. 4, lines 53-67, Ortega).

Regarding claim 18, Ortega/Fohn combination further discloses the first and second categories are each leaf categories of the respective first and second hierarchies of categories (see col. 4, lines 59-67, Ortega).

Regarding claims 20 and 29, Ortega discloses a method of facilitating location of a data item within a database, the method including:

- facilitating user-navigation of a first category structure to select a first category (see col. 1, lines 34-50, Ortega);

- identifying a second category (Outdoors/Events/Olympics) of a second category structure as being linked to the first category (Books/Sports) of the first category structure (col. 1, lines 42-57); and

- identifying data items of the second category responsive to the selection of the first category of the first category structure (see col. 1, line 58 to col. 2, line2, Ortega), wherein the first and second categories are defined by respective category paths of the first and second hierarchies of categories, the first category path including a first plurality of categories that are respectively associated with a first plurality of category identifiers and the second category path including a second plurality of categories that are respectively associated with a second plurality of category identifiers (col.5, line 1 to col. 6, line 20 and lines 30-39 and col.7, lines 6-50. Ortega discloses the category name that is unique identified and displayed to the user corresponds to "category identifier").

Ortega, however, does not explicitly disclose "the first hierarchy of categories and an alternative second hierarchy of categories." Fohn, on the other hand, discloses a method for improving user exploration through hierarchies of information including an information hierarchy of categories and an alternative hierarchy of categories (Figs. 6A-6C; col.2, lines 47-61 and col.15, line 63 to col.17, line 29, Fohn). Therefore, Fohn discloses the first hierarchy of

categories and an alternative second hierarchy of categories. It would have been obvious to one

of ordinary skill in the art at the time of the invention to modify the method of Ortega to include

an alternative second hierarchy of categories as taught by Fohn. The motivation of doing so

would have been to increase the popularity of on-line auction services, where a vast array of

products being offered at auction are organized into a hierarchy of categories to conveniently

direct a shopper's attention to the items corresponding to his personal interest (see col. 2, lines

18-23, Fohn).

Regarding claim 21, Ortega/Fohn combination discloses the facilitating of the user

navigation of presenting at least one user interface to display navigation information according to

the first hierarchy of categories (see col. 1, lines 34-50 and Fig.1A, Fig.2, Ortega);

Regarding claim 22, Ortega/Fohn combination further discloses the presenting of the at

least one user interface comprises generating at least one markup language document (250, Fig. 2

of Ortega discloses the web containing the markup language document).

Regarding claim 23, Ortega/Fohn combination discloses that any one of a group of

navigation aids including a drop-down menu, a selection of check boxes, a selection of radio

buttons, an embedded Java application and an embedded ActiveX control (see the browser of

Fig.1A and Fig.2, Ortega).

Regarding claims 24-25, Ortega/Fohn combination discloses the first record includes a

pointer to a second record within the category table describing the second category (col.7, lines

6-31, Ortega discloses the link that corresponds to the pointer).

Regarding claim 26, Ortega/Fohn combination further discloses the first and second

categories comprise respective leaf categories (see col. 4, lines 59-67, Ortega).

Regarding claim 27, Ortega/Fohn combination further discloses the step of communicating the identified data items within a markup language document (250, Fig. 2) transmitted over a network (Fig. 2 of Ortega).

Conclusion

5.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh B. Thai whose telephone number is 571-272-4029. The examiner can normally be reached on Mon-Thur (7:00AM - 4:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571-272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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June 26, 2007

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